

HOUSE BILL NO. 157

INTRODUCED BY MCKENNEY

BY REQUEST OF THE STATE AUDITOR

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A FORMULA RATHER THAN A SET INTEREST RATE FOR USE IN DETERMINING THE RATES OF INTEREST TO BE PAID ON MINIMUM NONFORFEITURE AMOUNTS UNDER AN ANNUITY CONTRACT; AMENDING THE CONTRACT CHARGE; ALLOWING A REDUCTION FOR PREMIUM TAX PAID; AMENDING SECTION 33-20-505, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 33-20-505, MCA, is amended to read:

"33-20-505. (Temporary) Minimum nonforfeiture amounts. (1) The minimum values as specified in 33-20-506 through 33-20-509 and 33-20-511 of any paid-up annuity, cash surrender, or death benefits available under an annuity contract must be based upon minimum nonforfeiture amounts, as defined in this section.

(2) (a) ~~With respect to contracts providing for flexible considerations, the~~ The minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payments must be equal to an accumulation up to that time at ~~a rate~~ rates of interest of ~~1.5% a year of percentages~~ as indicated in subsection (3)(a) of the net considerations, as described in subsection (2)(b), paid prior to that time, decreased by the sum of:

(i) any prior withdrawals from or partial surrenders of the contract accumulated at ~~a rate~~ rates of interest of ~~1.5% a year and~~ as indicated in subsection (3)(a);

(ii) an annual contract charge of \$50 accumulated at rates of interest as indicated in subsection (3)(a);

(iii) any premium tax paid by the company for the contract accumulated at rates of interest as indicated in subsection (3)(a); and

(iv) the amount of any indebtedness to the company on the contract, including interest due and accrued; ~~and increased by existing additional amounts credited by the company to the contract.~~

(b) The net consideration for a given contract year used to define the minimum nonforfeiture amount must be an amount ~~not less than zero and must be equal to~~ 87.5% of the corresponding gross considerations credited to the contract during that contract year ~~less an annual contract charge of \$30 and less a collection~~

1 charge of \$1.25 for each consideration credited to the contract during that contract year. The percentages of net
2 consideration must be 65% of the net consideration for the first contract year and 87 1/2% of the net
3 consideration for the second and later contract years. Regardless of the provisions of the preceding sentence,
4 the percentage must be 65% of the portion of the total net consideration for any renewal contract year that
5 exceeds by not more than two times the sum of those portions of the net consideration in all prior contract years
6 for which the percentage was 65%.

7 ~~——— (3) With respect to contracts providing for fixed schedule consideration, minimum nonforfeiture amounts~~
8 ~~must be calculated on the assumption that consideration is paid annually in advance and must be defined in the~~
9 ~~same manner as for contracts with flexible payments of consideration that are paid annually with two exceptions:~~

10 ~~——— (a) The portion of the net consideration for the first contract year to be accumulated must be the sum~~
11 ~~of 65% of the net consideration for the first contract year plus 22 1/2% of the excess of the net consideration for~~
12 ~~the first contract year over the lesser of the net considerations for the second and third contract years.~~

13 ~~——— (b) The annual contract charge must be the lesser of \$30 or 10% of the gross annual consideration.~~

14 ~~——— (4) With respect to contracts providing for a single consideration, minimum nonforfeiture amounts must~~
15 ~~be defined in the same manner as for contracts with flexible payments of consideration, except that the~~
16 ~~percentage of net consideration used to determine the minimum nonforfeiture amount must be equal to 90%~~
17 ~~and the net consideration must be the gross consideration less a contract charge of \$75.~~

18 (3) (a) (i) The interest rate used in determining minimum nonforfeiture amounts must be an annual rate
19 of interest determined as the lesser of 3% a year or the amount calculated under subsection (3)(a)(ii), which
20 must be specified in the contract if the interest rate will be reset.

21 (ii) The interest rate may be the 5-year constant maturity treasury rate reported by the federal reserve
22 board as of a date or an average over a period, rounded to the nearest 1/20th of 1%, specified in the contract
23 no longer than 15 months prior to the contract issue date or redetermination date under subsection (3)(a)(iii) and
24 reduced by 125 basis points whenever the resulting interest rate is not less than 1%.

25 (iii) The interest rate under subsection (3)(a)(ii) must apply for an initial period and may be redetermined
26 for additional periods. The redetermination date, basis, and period, if any, must be stated in the contract. The
27 basis is the date or the average over a specified period that produces the value of the 5-year constant maturity
28 treasury rate to be used at each redetermination date.

29 (b) During the period or term that a contract provides substantive participation in an equity indexed
30 benefit, the contract may increase the reduction described in subsection (3)(a)(ii) by up to an additional 100 basis

points to reflect the value of the equity index benefit. The present value at the contract issue date, and at each redetermination date, of the additional reduction may not exceed the market value of the benefit. The commissioner may require a demonstration that the present value of the additional reduction does not exceed the market value of the benefit. The commissioner may disallow or limit the additional reduction if the commissioner considers the demonstration unacceptable.

(4) The commissioner may adopt rules to implement the provisions of subsection (3)(b) and to provide for further adjustments to the calculation of minimum nonforfeiture amounts for contracts that provide substantive participation in an equity index benefit and for other contracts for which the commissioner determines that adjustments are justified. (Terminates July 1, 2005--sec. 4, Ch. 512, L. 2003.)

33-20-505. (Effective July 1, 2005) Minimum nonforfeiture amounts. (1) The minimum values as specified in 33-20-506 through 33-20-509 and 33-20-511 of any paid-up annuity, cash surrender, or death benefits available under an annuity contract ~~shall~~ must be based upon minimum nonforfeiture amounts, as defined in this section.

(2) (a) ~~With respect to contracts providing for flexible considerations, the~~ The minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payments ~~shall~~ must be equal to an accumulation up to ~~such that~~ that time at ~~a rate~~ rates of interest ~~of 3% a year of percentages~~ as indicated in subsection (3)(a) of the net considerations (as hereinafter defined), as described in subsection (2)(b), paid prior to such that time, decreased by the sum of:

(i) any prior withdrawals from or partial surrenders of the contract accumulated at a rate rates of interest of 3% a year as indicated in subsection (3)(a);

(ii) an annual contract charge of \$50 accumulated at rates of interest as indicated in subsection (3)(a);

(iii) any premium tax paid by the company for the contract accumulated at rates of interest as indicated in subsection (3)(a); and

(iv) the amount of any indebtedness to the company on the contract, including interest due and accrued; and increased by existing additional amounts credited by the company to the contract.

(b) The net consideration for a given contract year used to define the minimum nonforfeiture amount ~~shall~~ must be an amount ~~not less than zero and shall be~~ equal to 87.5% of the corresponding gross considerations credited to the contract during that contract year ~~less an annual contract charge of \$30 and less a collection charge of \$1.25 per consideration credited to the contract during that contract year. The percentages of net consideration shall be 65% of the net consideration for the first contract year and 87 1/2% of the net~~

consideration for the second and later contract years. Notwithstanding the provisions of the preceding sentence, the percentage shall be 65% of the portion of the total net consideration for any renewal contract year which exceeds by not more than two times the sum of those portions of the net consideration in all prior contract years for which the percentage was 65%.

——— (3) With respect to contracts providing for fixed schedule consideration, minimum nonforfeiture amounts shall be calculated on the assumption that consideration is paid annually in advance and shall be defined as for contracts with flexible payments of consideration which are paid annually with two exceptions:

——— (a) The portion of the net consideration for the first contract year to be accumulated shall be the sum of 65% of the net consideration for the first contract year plus 22 1/2% of the excess of the net consideration for the first contract year over the lesser of the net considerations for the second and third contract years.

——— (b) The annual contract charge shall be the lesser of \$30 or 10% of the gross annual consideration.

——— (4) With respect to contracts providing for a single consideration, minimum nonforfeiture amounts shall be defined as for contracts with flexible payments of consideration except that the percentage of net consideration used to determine the minimum nonforfeiture amount shall be equal to 90% and the net consideration shall be the gross consideration less a contract charge of \$75.

(3) (a) (i) The interest rate used in determining minimum nonforfeiture amounts must be an annual rate of interest determined as the lesser of 3% a year or the amount calculated under subsection (3)(a)(ii), which must be specified in the contract if the interest rate will be reset.

(ii) The interest rate may be the 5-year constant maturity treasury rate reported by the federal reserve board as of a date or an average over a period, rounded to the nearest 1/20th of 1%, specified in the contract no longer than 15 months prior to the contract issue date or redetermination date under subsection (3)(a)(iii) and reduced by 125 basis points whenever the resulting interest rate is not less than 1%.

(iii) The interest rate under subsection (3)(a)(ii) must apply for an initial period and may be redetermined for additional periods. The redetermination date, basis, and period, if any, must be stated in the contract. The basis is the date or the average over a specified period that produces the value of the 5-year constant maturity treasury rate to be used at each redetermination date.

(b) During the period or term that a contract provides substantive participation in an equity indexed benefit, the contract may increase the reduction described in subsection (3)(a)(ii) by up to an additional 100 basis points to reflect the value of the equity index benefit. The present value at the contract issue date, and at each redetermination date, of the additional reduction may not exceed the market value of the benefit. The

1 commissioner may require a demonstration that the present value of the additional reduction does not exceed
2 the market value of the benefit. The commissioner may disallow or limit the additional reduction if the
3 commissioner considers the demonstration unacceptable.

4 (4) The commissioner may adopt rules to implement the provisions of subsection (3)(b) and to provide
5 for further adjustments to the calculation of minimum nonforfeiture amounts for contracts that provide substantive
6 participation in an equity index benefit and for other contracts for which the commissioner determines that
7 adjustments are justified."

8
9 NEW SECTION. SECTION 2. SAVING CLAUSE. [THIS ACT] DOES NOT AFFECT RIGHTS AND DUTIES THAT
10 MATURED, PENALTIES THAT WERE INCURRED, OR PROCEEDINGS THAT WERE BEGUN BEFORE [THE EFFECTIVE DATE OF THIS
11 ACT].

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13 NEW SECTION. Section 3. Effective date -- applicability. [This act] is effective July 1, 2005, and
14 applies to an annuity contract that is entered into OR RENEWED on or after July 1, 2005.

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